

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

BROOKLYN OFFICE

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THOMAS GESUALDI, LOUIS BISIGNANO,
ANTHONY PIROZZI, DOMINICK MARROCCO,
ANTHONY D'AQUILA, FRANK FINKEL,
JOSEPH FERRARA, SR., MARC HERBST,
THOMAS PIALI and DENISE RICHARDSON,
as Trustees and Fiduciaries of the Local 282
Welfare, Pension, Annuity, Job Training, and
Vacation and Sick Leave Trust Funds,

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

09 CV 1484 (SLT)(AKT)

Plaintiff,

-against-

MMK TRUCKING, INC., ROAD SAVERS, INC.,
FTU LEASING CORP.,

Defendants.
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TOWNES, United States District Judge:

On April 6, 2009, plaintiffs filed this action for the collection of unpaid and delinquent contributions and attendant damages pursuant to the Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. §§ 1132(a)(3) and 1145. On August 19, 2009, defendant Road Savers, Inc., filed an answer, but defendants MMK Trucking, Inc. ("MMK") and FTU Leasing Corp. ("FTU") never responded or sought additional time to respond to the complaint. On March 12, 2010, plaintiffs therefore moved for a default judgement against MMK and FTU. By order dated April 7, 2010, this Court referred plaintiffs' motion to the Honorable A. Kathleen Tomlinson, United States Magistrate Judge, for a Report and Recommendation ("R&R").

On August 12, 2010, Judge Tomlinson issued an R&R recommending that a default judgment as to liability should be entered against MMK and FTU, but that the calculation of

damages against MMK and FTU be deferred until the case is resolved as to non-defaulting Road Savers, Inc.

Under 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil Procedure, parties have fourteen days from the service of an R&R to file written objections. See also Fed. R. Civ. P. 6(a) and (d). As of the date of this order, the Court has received no objections. Accordingly, the Court has reviewed the R&R for clear error on the face of the record. Accord Edwards v. Town of Huntington, No. 05 Civ. 339 (NGG) (AKT), 2007 WL 2027913, at *2 (E.D.N.Y. July 11, 2007); McKoy v. Henderson, No. 05 Civ. 1535 (DAB), 2007 WL 678727, at *1 (S.D.N.Y. Mar. 5, 2007). The Court finds no clear error and therefore adopts Judge Tomlinson's R&R in its entirety as the opinion of the Court pursuant to 28 U.S.C. § 636(b)(1).

CONCLUSION

For the reasons stated above, Judge Tomlinson's Report and Recommendation dated August 12, 2010, is adopted in its entirety. Plaintiffs' motion for a default judgment against MMK and FTU is granted, but the calculation of damages against these defendants is deferred until the case is resolved as to Road Savers, Inc.

SO ORDERED.

s/ SLT

SANDRA L. TOWNES
United States District Judge

Dated: September 8, 2010
Brooklyn, New York